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Error to Corporation Court of Roanoke.

Action between Lucy M. Rice and Mary B. Oakes Freeland. To review judgment admitting certain letter to probate as the last will and testament of John C. Freeland, deceased, the former brings error. Affirmed.

*Hall, Wingfield & Apperson*, of Roanoke, for plaintiff in error.

*A. B. Hunt and Staples, Cocke & Hazlegrove*, all of Roanoke, for defendant in error.

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WILSON BROS. et al. v. BRANHAM et al.

Sept. 28, 1921.

[109 S. E. 189.]

**1. Logs and Logging (§ 3 (1\*))—Fee Owner of Land May Convey Timber with Unlimited Time for Entry and Removal.**—Fee owner of land may convey an absolute estate in standing timber with unlimited time for entry and removal.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 493.]

**2. Property (§ 11\*)—Owner May Dispose of as He Sees Fit unless Contrary to Public Policy or Positive Rule of Law.**—Owner may dispose of property as he sees fit unless intended disposition is contrary to public policy or some positive rule of law.

[Ed. Note.—For other cases, see 11 Va.-W. Va. Enc. Dig. 940.]

**3. Woods and Forests (§ 1\*)—Standing Trees Are Realty.**—Standing trees are realty.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 219.]

**4. Logs and Logging (§ 3 (7\*))—Different Portions of Timber Deed Reconciled, if Possible.**—In construing a timber deed, the court will take the whole contract together and reconcile, if possible, apparent conflicts between different portions, so as to make it, and every part, conform to and be in harmony with the manifest general intent.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 419.]

**5. Logs and Logging (§ 3 (7\*))—Grantor Retains Title until Timber Is Cut and Removed within Specified Time.**—Where deed conveying standing timber fixes time for removal, the absolute title does not pass out of the grantor until grantee cuts and removes timber within the specified period; the rights of grantee to the standing timber terminating upon the expiration of the specified period.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 506.]

**6. Logs and Logging (§ 3 (11\*))—Deed Held to Give Unlimited Time for Removal.**—Warranty deed conveying specified number of branded trees on land largely nontillable and valuable principally for timber, for which there was no immediate market owing to lack of transportation facilities, giving grantee the right to enter "at any

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

time" to build roads and mills and to cut, manufacture, and remove trees, and providing that grantee shall have 10 years in which to cut and remove the trees, and that grantor shall have the right to deaden the trees standing on expiration of such 10-year period and clear the land for cultivation, held to convey fee in standing timber with indefinite time for removal even after expiration of 10-year period.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 420.]

**7. Logs and Logging (§ 3 (5\*))—Evidence Held Not to Prove Abandonment.**—In an action to enjoin removal of standing timber, evidence held not to prove abandonment of the right to the timber under timber deed.

Appeal from Circuit Court, Dickenson County.

Suit by William J. Branham and another against Wilson Bros. and another. Decree for complainants, and defendants appeal. Reversed.

*A. A. Skeen*, of Clintwood, *Phipps & Phipps*, of Clintwood, *O. M. Vicars*, of Wise, *J. W. Flannagan, Jr.*, of Grundy, and *Geo. C. Peery*, of Tazewell, for appellants.

*Sale & Harris*, of Richmond, and *Chase & McCoy*, of Clintwood, for appellees.

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WILSON BROS. et al. v. W. M. RITTER LUMBER CO.

Sept. 28, 1921.

[109 S. E. 201.]

Appeal from Circuit Court, Dickenson County.

Suit by the W. M. Ritter Lumber Company against Wilson Bros. and others. Decree for complainants, and defendants appeal. Reversed.

*A. A. Skeen* and *Phipps & Phipps*, all of Clintwood, *O. M. Vicars*, of Wise, *J. W. Flannagan, Jr.*, of Grundy, and *Geo. C. Peery*, of Tazewell, for appellants.

*Sale & Harris*, of Richmond, and *Chase & McCoy*, of Clintwood, for appellees.

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PENDLETON v. COMMONWEALTH.

Sept. 22, 1921.

[109 S. E. 201.]

**1. Homicide (§§ 233, 245\*)—Evidence Held Insufficient to Establish Motive Claimed or to Show Shooting Necessary to Accomplish Same.**—In prosecution for murder, evidence held insufficient to show

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.